

# COUNTY OF EL DORADO

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**James S. Mitrisin**  
Clerk of the Board



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November 13, 2012

Board of Forestry and Fire Protection  
Attn: Eric Huff  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

Subject: State Responsibility Area Fire Prevention Benefit Fee, 2012

Dear Mr. Huff:

The Board of Supervisors for the County of El Dorado opposes the imposition of the state fire fee and believes the Legislature has grievously erred by passing legislation imposing a new tax without the constitutionally required two-thirds majority. Recognizing however that the issue will ultimately be decided in court and that the Board of Forestry and Fire Protection remains under statutory obligation to adopt permanent regulations, the Board of Supervisors offers the following comments on the proposed rulemaking.

The SRA map we reviewed continues to be out-of-date and inaccurate. Prior to enacting permanent regulations, the Board of Forestry and Fire Protection needs to review, update, and correct the SRA map. If the state fails to correct the map, El Dorado County residents will continue to be inappropriately charged the State Fire Prevention Fee.

County staff has reviewed the "State Responsibility Area (SRA) Classification System available on the Board of Forestry and Fire Protection's website. The criteria contained in this Legislatively-directed procedure, along with the Public Resources Code §4101 et seq., are not congruent with the SRA map available online as of July 27, 2012 (adopted January 2011). If Cal Fire's existing SRA map is used to determine which parcels are levied the SRA fee, property owners will be inappropriately billed, based upon the criteria set forth in the SRA Classification System and Public Resources Code. We are specifically concerned about properties within the following urbanized (or semi-urbanized) areas: El Dorado Hills, Cameron Park, Rescue, Diamond Springs/El Dorado, Smith Flat, Pollock Pines/Sly Park, Auburn Lake Trails, Grizzly Flat, Meyers, and Meeks Bay/Tahoma. We are also concerned about the significantly-sized fruit orchards and vineyards located in Apple Hill, Gold Hill/Coloma, and Fairplay/Somerset/Mt. Aukum.

For purposes of fee assessment, Public Resources Code § 4211(a) defines structure as, "a building used or intended to be used for human habitation." The law does not appear to allow the Board of Forestry and Fire Protection to impose the fee on property that is not used or intended to be used for

human habitation. Even the staff recommended alternative (Alternative 3) notes that the enacting statute imposed the fee burden upon residents of SRA lands. Yet, the Notice of Proposed Rulemaking indicates that approximately 22,000 commercial, industrial and office structures are estimated to be eligible for the fee. Unnecessarily forcing rural business owners to pay an unauthorized fee and file a petition for redetermination is reckless. The discussion of the economic impact to businesses in the Notice of Preparation omits any acknowledgement of the time investment to pay and protest the fee, especially when supporting documentation is required to support the petition for redetermination.

Along these lines, the Board of Forestry and Fire Protection should allow 60 days rather than 30 to file a petition for redetermination. Thirty days is simply not enough time for a property owner to complete sufficient research, obtain supporting documentation, and complete the petition process. Moreover, the Board should adopt regulations which eliminate the necessity for a property owner to file a claim for a refund for money which was not owed in the first place. If a petition is successful and a refund is due, the burden to make the payment should belong to the state, not the property owner.

Furthermore, the economic analysis pertaining to the competitiveness of California businesses with other Western states is ironically flawed in that it compares the state fire *prevention* fee to other states “where landowners contribute to fire *protection* budgets...” Many landowners within the SRA already contribute to fire protection through local voter-approved special taxes (Government Code § 50075) and/or fire suppression assessments (Government Code § 50078). The state fire *prevention* fee is assessed in addition to taxes and assessments established for fire protection and is therefore an excess burden on California businesses. Given these considerations, the Board of Forestry and Fire Protection should remain within the authority granted by the Legislature and adopt regulations which reflect the narrow definition of “structure” provided in statute.

We know from firsthand experience dealing with constituent questions that the public is confused about where to file a petition for redetermination. The proposed regulations perpetuate this confusion. Public Resources Code § 4221 says that each petition for redetermination “shall be in writing and be sent to the department [Cal Fire], the board [Board of Forestry and Fire Protection], and the State Board of Equalization. The proposed regulations indicate that a property owner “may petition the Department [Cal Fire] for a redetermination...” This confusion is compounded by the fact the State Board of Equalization is the entity distributing the bills. The proposed regulation should clarify this confusion and perhaps include language which holds petitioners harmless against the timelines specified for filing, if a petition is erroneously sent to the wrong state entity.

The definition of property owner should be revised to exclude public agencies. The regulations transfer discretionary dollars from local agencies to Cal Fire. Any local agency providing any level of fire service is already funding fire prevention. The regulations envision the return of some funds to counties in the form of grants, so taking money away from counties in the first place makes little sense. Government should not have to pay fees to government.

The current regulatory scheme provides that the person responsible for the fee is the owner as of July 1. However, assessment rolls reflect the owner as of the lien date which is January 1. Because the basis of the fire fee bill is the assessment roll, the date should be changed and the conflict eliminated.

Mobilehomes and manufactured homes in mobilehome parks should be exempted from the fee requirement. These structures are almost entirely inhabited by senior citizens on fixed incomes. Consequently, the fee poses an undue financial burden. Mobilehome parks do not receive much benefit from fire prevention services commensurate with other residences due to their high density


and minimal amount of vegetation. In addition, the State Board of Equalization and Cal Fire and its third party administrator have generated a substantial number of double billings on mobilehomes. These billing errors are principally due to conflicts between the records of County Assessors and those of the California Department of Housing and Community Development. Mobilehomes can also be licensed through Department of Motor Vehicles, or assessed on the local property tax roll. Using multiple sources of information to generate bills ensures billing errors will continue to occur. If the State cannot bill accurately, it shouldn't bill at all, especially given the unique hardship this fee causes for many senior citizens.

The Board of Forestry and Fire Protection should carefully reexamine the administrative costs of this program, and seek methods to make the program more efficient. The Notice of Proposed Rulemaking indicates a combined administrative annual cost between the Board of Forestry and Fire Protection and the State Board of Equalization of \$14,000,000 for an a program estimated to bring \$85,000,000 in revenue. This equates to an excessive 16.5% administrative charge. In other words, presuming most people pay the reduced amount of \$115, then a whopping 121,739 Californians will do nothing more than fund the SRA program's bloated overhead.

Finally, in setting the fee at the maximum \$150 dollars, the Board of Forestry and Fire Protection has significantly underestimated the devastating effect this will undoubtedly cause for local fire protection agencies. Rural fire protection districts provide all-hazard emergency response, and are often the first responders to wildfire incidents. In addition to ad valorem property taxes, most rural property owners in the County of El Dorado also pay a voter-approved special tax and/or fire suppression assessment. Despite this revenue, with increasing personnel, training and equipment costs local fire protection districts are on the brink of financial deterioration. The new fire prevention fee all but guarantees that local fire districts will never again achieve voter or landowner approval for new special taxes or assessments. The ultimate impact of this will be greater than the reductions in service discussed in the Notice of Proposed Rulemaking. The true consequence of this will be the complete dissolution of rural fire protection districts, which will in turn increase risk and further strain Cal Fire resources. This complex interplay between state and local fire protection efforts deserves detailed analysis before the Board of Forestry and Fire Protection determines the maximum fee amount.

Please contact Terri Daly, Chief Administrative Officer at (530) 621-5567 should you have any question about these comments.

Sincerely,  
County of El Dorado



John R. Knight, Chair  
Board of Supervisors  
County of El Dorado

## THE SRA FEE AND THE IMPACT ON THE STATE'S FIRE PROTECTION SERVICES

At the end of the 2011 budget session, the California Legislature adopted ABX1 29. This legislation established Public Resources Code Sections 4210 through 4228. The established statutes, among other items, directed the Board of Forestry and Fire Protection (Board) to adopt emergency regulations (14 CCR Chapter 13 Section 1665) implementing a Fire Prevention Fee on structures within State Responsibility Areas (SRA). ABX1 29 was a "Trailer Bill" to the Budget Act of 2011. This bill was adopted in the final days of the budget session and was adopted without benefit of legislative hearings or public comment.

As required by the legislation, the Board adopted emergency regulations during its August meeting. Recognizing the substantial impact that the fee would have on local agencies, the Board mitigated the fee through the adoption of several provisions for fee deductions. Most significant was a fee deduction for those parcels that were within the boundary of a local fire protection agency. At the Board's November meeting, after the Governor's appointment of 4 new members, the Board voted to amend the proposed regulations to increase the fee to the maximum allowed under the enabling legislation (\$150 per habitable structure). The amended regulations included a single deduction of \$35 for those structures that were within the external boundaries of a local fire protection agency. Following the second submission to the Office of Administrative Law the emergency regulations became effective.

The genesis of the legislation can be traced back several years. In 2003-04 the Legislature enacted SB 1049 that imposed an annual SRA fire protection fee. This legislation was the direct result of the legislature's belief that Cal Fire was providing a significant benefit, beyond wildland fire protection, to rural communities. This fee was repealed in the following year and was never implemented. In almost every subsequent year, a bill has been introduced to reestablish some form of SRA fee. Unfortunately the Legislature has little understanding about how emergency services are provided in California. This is especially true in the rural areas that are primarily designated SRA. The Legislature has a very distorted view of the relationship between Cal Fire and local emergency service providers. What understanding the Legislature does have appears to be derived from reports prepared by Cal Fire and the Legislative Analyst Office.

Over the last several years, the Legislative Analyst Office has addressed the continuing escalation of costs associated with fire protection activities of the Department of Forestry. The following are three of those reports prepared by the LAO:

[http://www.lao.ca.gov/analysis\\_2007/resources/resource\\_anl07.pdf#page=77](http://www.lao.ca.gov/analysis_2007/resources/resource_anl07.pdf#page=77)

[http://www.lao.ca.gov/analysis/2010/resources/res\\_anl10.pdf](http://www.lao.ca.gov/analysis/2010/resources/res_anl10.pdf)

[http://www.lao.ca.gov/handouts/resources/2011/Proposed\\_Realignment\\_of\\_Fire\\_and\\_Emergency\\_Response\\_020211.pdf](http://www.lao.ca.gov/handouts/resources/2011/Proposed_Realignment_of_Fire_and_Emergency_Response_020211.pdf).

In each of these reports the LAO has made reference to Cal Fire's increasing number of non-wildland fire emergency responses. Over the last several years the LAO has referenced the 2006 Cal Fire Red Book ([http://www.fire.ca.gov/downloads/redbooks/2006\\_BW.pdf](http://www.fire.ca.gov/downloads/redbooks/2006_BW.pdf)) which summarizes Cal Fire's Emergency Activity. The state totals are summarized in the table entitled, 2006 Incident Totals – Statewide. The incident totals are broken down by state, local or federal responsibility. The totals are further broken down by 6 incident types. The 2007-08 analysis by the LAO states:

*“As shown in Figure 1, in the calendar year 2006, the department responded to more than 340,000 separate incidents—including vegetation fires, structure fires, and emergency medical incidents. (The figure shows the number of responses by the department, the type of incidents, and in which area of responsibility the incident occurred, even though the department responded. As mentioned above, the state is only responsible for vegetation fires in SRA, though the department may respond to other incidents if it has resources available.) Approximately 70 percent of the department’s responses were for medical emergencies, while only 1 percent of total calls were for vegetation fires in SRA (about 4,500 incidents). Also, roughly 65 percent of department responses were to incidents outside of SRA in local responsibility areas. On the other hand, the federal government and local agencies also respond to incidents in SRA. In 2006, federal fire agencies responded to roughly 750 vegetation fires in SRA, while local governments responded to about 5,500 vegetation fires in SRA.”*

The numbers as reported and used by LAO, are totally misleading and do not reflect the actual responses by Cal Fire. Using Mendocino County as an example, Cal Fire has contracted to provide 911 emergency dispatching for all but two fire agencies within the county. In Mendocino County the Red Book reports 9886 total incidents in 2006. As a normal practice, each incident is given an MEU number. Each fire agency in California is assigned a 3 letter designator. MEU is the 3 letter designator for Cal Fire’s Mendocino Unit. This is a sequential numbering of incidents as handled by Howard Forest, the Cal Fire Mendocino Unit Command Center. Each incident is assigned an MEU number even if Cal Fire’s only action is to dispatch the responsible local agency. As an example, if the Howard Forest Command Center dispatches the Willits Ambulance to a traffic collision on Highway 20 the incident is given an MEU number even if no Cal Fire units are assigned to the incident.

On a statewide basis, the LAO has identified as significant the number of medical aids that Cal Fire reportedly responds to. For Mendocino County the Red Book reports 2762 medical aids within the SRA. These are almost totally handled by local agencies with Cal Fire’s actual response limited to mutual aid or as a secondary responder. Only a small percentage of the incidents include a response by Cal Fire personnel. The Red Book also shows 4116 responses to Medical Aids within Local Responsibility Areas. These responses are almost exclusively handled by local agencies with only a very minor response by Cal Fire. Unfortunately, the Red Book does not provide enough detail to accurately identify the actual commitment of Cal Fire resources to an incident. When analyzing the numbers, it becomes very clear that the actual responses by Cal Fire to emergency incidents is significantly less than what appears to be indicated in the Red Book. What is clear is that the report is misleading as to the actual number and the LAO has relied upon these misleading numbers to provide its analysis to the legislature.

In addition, the numbers also seem to include incidents in areas where local agencies have contracted with Cal Fire to provide emergency services. In these cases (Schedule A or Amador Contracts) Cal Fire is paid by the local agency to provide the service. Under these contracts Cal Fire may respond to all types of incidents within either SRA or LRA. Because these responses are covered by local contracts, where by law Cal Fire must be fully reimbursed for the additional cost, they should not be used to calculate any fiscal impact to the state as it relates to development in the SRA.

The recently enacted SRA fee is clearly a reaction to the misrepresented numbers and a lack of understanding on the part of the legislature. The rapidly-expanding Cal Fire budget is the result of several factors, responding to incidents outside its primary mission does not appear to be a significant factor. It is certainly not a \$50 million factor. (\$50 million being an estimate of the fee to be collected.)

The LAO reports identify the escalating costs of fire suppression as a factor of expanding development into the SRA. There is no argument that there has been a significant expansion of development in the SRA. Neither Cal Fire nor the LAO, however, has ever provided a detailed analysis of the relationship of suppression costs and the presence of structures in the wildland environment. The protection of life and

property in the rural setting is a complicated matrix of responsible agencies and mutual aid agreements. This is further complicated by changing fuel conditions, climate change and environmental restrictions. The LAO's 2011 report on the "Governor's Proposed Realignment of Fire and Emergency Response Activities" states that there are several reasons why the state's expenditure for fire protection have grown so substantially over the last decade. One of the 3 identified reasons is stated as:

***"Increasing Workload Due to Increasing Development in the Wildland Urban Interface. There has been increasing development in SRAs over the last several decades. Increasing development makes human-caused fires more likely. The presence of people and homes also limits the department's available fire-fighting tactics—such as controlled burns and aircraft use—which require CalFire to rely on more costly methods of fire protection."***

One might assume that this is a significant factor. However, data has not been presented that supports these findings; in fact, it certainly could be argued that environmental restrictions have played a more significant roll in limiting firefighting tactics. There may in fact be other overriding beneficial consequences of development in the SRA. These might include early detection of fire starts, regardless of cause. The establishment of local fire suppression resources may increase the number of responding units and reduce response times. Additionally, the establishment of road systems provides better access, roads and landscaped areas provide fuel breaks, and water systems provide ready access to water utilized in suppression. Certainly in most areas, but admittedly not in all, fire suppression resources have been enhanced in relationship to rural development. An analysis that has not been done is what additional resources are available for use under the state mutual aid system as a result of the enhancement of rural fire departments. One would need to look no further than the fire storms of 2003 or the lightning fires of 2008 to see what impact the resources originating from rural fire departments had on the state's ability to combat these fires.

At the heart of the matter, however, is the significant adverse impact the SRA fee will have on local agencies' ability to raise operational funds. Local agencies such as fire districts are very limited in their options for raising funds for operations. Most districts receive a small portion of the ad valorem property taxes. More significant are the benefit assessments or special fire taxes that have been implemented in individual districts. A benefit assessment fee requires a 50% + 1 vote of those to be assessed and is very costly to implement. The special fire tax requires a 2/3 vote of the district residents but is less costly than the benefit assessment to implement. Once again using Mendocino County as an example, most of the districts with special fire taxes gained approval in a 1997 election. Each of these tax initiatives established a maximum allowable tax. All of these districts are now facing the need to return to the voters asking for approval to raise the cap on the tax. As the legislature knows, gaining a 2/3 approval for a tax is a very difficult hurdle. Voters who will soon be paying an SRA Fee in addition to a special fire tax, will not be inclined to vote in the affirmative for a tax increase. In essence, the state, by establishing the SRA Fee, has capped the future income for fire districts.

Two specific examples of SRA Fee impacts on the ability of local agencies to raise funds through voter approved taxes can be found in both Mendocino and Humboldt Counties. In Mendocino County, the County Fire Chiefs and local emergency medical providers were working in cooperation with county government to present to the voters a parcel tax which would help fund emergency medical services and supplement local fire agency income. Mendocino County's emergency medical services are at a critical juncture. Roughly half of the county is served by Basic Life Support services only. Approximately 2/3 of the County receives its EMS transports from volunteer fire departments and in approximately ¾ of the county EMS first responders are from volunteer agencies. Due to the economic conditions of the county, the bulk of the patients receiving emergency medical care are either MediCal or private pay. Collection rates within the county are significantly below state averages. The County effort to place the parcel tax before the voters was on track for a 2012 election. With the passage of ABX1 29, the County

and the Fire Chiefs elected to discontinue the effort. The cost of the election with the now questionable outcome made the effort too risky to pursue.

In southern Humboldt County several volunteer fire companies have been working toward the establishment of a fire protection district. The existing fire companies have no taxing authority and rely almost entirely on community donations. By establishing a fire district, they would then have the ability to place before the voters the question of a benefit assessment or special fire tax. Obviously, once the state begins to collect the SRA fee, the approval of a local fire protection tax will become much more problematic. Without the likelihood of a voter approved tax, the formation of the district has little value. Beyond the impact on the district formation, the fee will likely have a negative impact on voluntary donations.

It is not difficult to imagine that the SRA fee will increase over time. It is also not hard to imagine that the local emergency service providers will be squeezed between rising costs and diminishing revenues. The legislature, with little to no understanding of the California fire service, has passed a bill imposing a fee based on data that is not reflective of reality. Furthermore, the legislature has failed to recognize the defined responsibilities for fire protection as codified in California statute. Identified within the Health and Safety Code, Section 13801, it states that “*the State has recognized that fire protection among other services is best provided at the local level.*” In addition, the Health and Safety Code gives local government (Fire Districts) specific authorities and responsibilities to provide emergency services including fire prevention and protection to the areas within their boundaries. In the Board’s 2010 Strategic Fire Plan, it states:

***“State, local and federal agencies each have a unique responsibility for wildland fire protection. The delivery of wildland fire protection services in California relies on an integrated, multi-agency effort to maximize the use of firefighting resources. This integration is essential to avoid duplication of firefighting resources and to allow the closest available resources to respond to a fire, regardless of jurisdiction. This integration is authorized by statute and guided by interagency agreements under which the state provides services to local and/or federal agencies, and vice versa.”***

This fee unfortunately puts at risk this long-standing strategy for protecting California’s wildlands. In total, the SRA Fee will have a significant long-term adverse impact on the state’s multifaceted fire protection system. The potential costs to local fire agencies will far exceed the anticipated revenue received by the state. The available resources available to respond to the state’s frequent major events will likely be less, not more. Rural communities that rely on their local fire departments will see an increase in fire protection costs while they receive a reduced level of service.

The SRA fee was promoted on faulty data and a complete lack of understanding as to how the state’s fire protection system works. The net result will be that California’s wildlands will be at significantly greater risk.

James E. Little, Chief  
Long Valley Fire Protection District  
Laytonville, CA



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November 16, 2012

Stan Dixon, Chair  
Board of Forestry & Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

**RE: Implementation of Assembly Bill 29X (Blumenfield) - Permanent SRA Fee Regulations**

Dear Chair Dixon:

The Regional Council of Rural Counties (RCRC) once again would like to thank the Board of Forestry & Fire Protection (Board) for the opportunity to comment on the ongoing efforts to implement Assembly Bill 29X. However, RCRC's thirty-two member counties have not changed their position and remain emphatically opposed to the imposition of any fee on the owners of structures located in State Responsibility Areas (SRA). While we are mindful of the implementation mandate placed on the Board by the Legislature, we offer these comments on the proposed permanent regulations to reflect our continued opposition to the fee.

RCRC has long opposed the concept of an SRA fee due to its disproportionate effects on rural communities. RCRC has always contended that AB 29X and its implementation - and indeed the imposition of any SRA fee - would raise a number of financial, equity, administrative, and logistical issues that will create long-term fiscal concerns that may prove detrimental to all of California's residents. Our concerns have already been substantiated by Department of Finance estimates showing that there will be no return-to-source benefit from this fee until at least fiscal year 2017-2018.

At its core, this fee is unfair to the rural residents in that CalFIRE's costs to respond to emergencies that occur in highly-urbanized areas are significantly higher than traditional wildfires in the SRA, placing rural residents in the position of subsidizing the most costly of CalFIRE's activities. Furthermore, many landowners in the SRA have already assessed themselves for fire protection and prevention services. Imposing an SRA fee has the effect of double taxation without any additional benefit.

Moreover, we maintain that this SRA fee will have chilling consequences to the efficacy of the mutual aid system in California, a system that requires a level of trust and camaraderie between state and local firefighters. While the fee has not yet been in effect long enough to realize these consequences, we are increasingly certain that this fee will prove a huge detriment to fire protection activities in rural communities.

Beyond those anticipated issues, the fee billing and implementation process is already causing confusion among fee-payers due to incorrect, inaccurate and unwarranted billings. Immediately after the first bills were mailed, we began receiving reports from our members that citizens were being billed incorrectly - a trend which has continued throughout the billing process. Residents are receiving bills for structures that are located inside incorporated cities, which by definition is outside of the SRA. There have been reports of residents receiving bills associated with a parcel that has no structure located upon the property, and similar reports of residents receiving bills when there is a structure on the parcel, but the structures are uninhabitable. Owners of mobile homes are being billed twice for the same structure, and we understand that thousands of structure owners have received bills that do not reflect the \$35 'discount' associated with having local fire protection services.

RCRC has asserted from the moment AB 29X was enacted that such challenges and burdens on the state, counties, and residents of the SRA would follow in its wake, but the state is offering no relief to the citizens beleaguered by this fee. We believe it has already been demonstrated that this fee is no longer worth the expense of administering it, and this is before the legal challenges have been exhausted which are likely to result in a dismissal of these fees or a reconstruction of the fee pool – something that will be even more expensive to implement.

Ultimately, RCRC maintains that the only fair solution to this fee is complete repeal. We believe that the state, through a thoughtful, meaningful public process, can develop a much more reasonable method of addressing the long-term financial obligations of CalFIRE without placing the burden almost entirely on the backs of rural Californians. RCRC looks forward to continuing to work with the Board throughout the AB 29X implementation process.

Sincerely,

A handwritten signature in black ink, appearing to read "Staci Heaton", with a stylized flourish at the end.

Staci Heaton  
Regulatory Affairs Advocate

cc: Members of the California Board of Forestry and Fire Protection  
George Gentry, Executive Officer of the California Board of Forestry & Fire Protection  
Members of the California Legislature  
The Honorable Jerry Brown, Governor of the State of California  
Members of the State Board of Equalization  
Ms. Ana Matosantos, Director of the Department of Finance  
Ken Pimlott, Director of the California Department of Forestry & Fire Protection  
George Runner, Member Board of Equalization



# N·C·S·D

## Northstar Fire Department

Northstar Community Services District  
910 Northstar Drive, Northstar, CA 96161  
P: 530.562.1212 • F: 530-562.0702 • [www.northstarcsd.org](http://www.northstarcsd.org)

### Board of Directors

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### Fire Chief

MARK SHADOWENS

October 29, 2012

Board of Forestry and Fire Protection  
Attention: Eric Huff  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

Northstar Community Services District opposes the newly implemented State Responsibility Area (SRA) fee, which will impose additional financial burden on its constituents without providing additional fire services.

SRA fees mandate that many homeowners living in forested or wildfire-prone areas pay an annual fee of \$150 to the State of California for fire-prevention services. Districts throughout California have actively opposed the bill on behalf of our constituents since the idea was presented a few years ago as a way to generate additional revenues for the state.

The Northstar Community Services District service area includes homes located in the State Responsibility Areas (SRAs). These zones are already primarily protected by the District's fire department. Homeowners already pay local taxes for year-round fire prevention and protection services. It is the position of Northstar Community Services District that the annual \$150 SRA fee is onerous to the residents as it does not provide any direct benefit from the California Department of Forestry and Fire Protection (CAL FIRE), the state's firefighting agency. Local fire districts will not receive any of the estimated \$125 million collected.

The Northstar Community Services District did not support the legislation that enacted the fee and does not believe that this fee should be imposed on the residents served. California's Master Mutual Aid System, which is a model for the rest of the nation, has for decades inspired collaboration between local fire agencies and the state and will be jeopardized by these fees. Local fire agencies are concerned that with the implementation of the SRA fees, any future measures supporting local fire protection, prevention and paramedic services will simply not be approved by voters putting the local agency and its constituents at risk.

Sincerely,

Mark Shadowens  
Fire Chief  
Northstar Fire Department

# CALIFORNIA CATTLEMEN'S ASSOCIATION

1221 H STREET • SACRAMENTO, CALIFORNIA • 95814-1910

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PHONE: (916) 444-0845  
FAX: (916) 444-2194  
[www.calcattlemen.org](http://www.calcattlemen.org)

November 20, 2012

State Board of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Attention: George Gentry, Executive Officer, Board of Forestry and Fire Protection  
Re: State Responsibility Fees

The California Cattlemen's Association (CCA) respectfully opposes the Board of Forestry and Fire Protection's (Board) adoption of final regulations for the State Responsibility Area (SRA) fee. California ranchers own or manage nearly 34 million acres of private and public rangelands, and a majority of the state's SRAs encompass this grazed rangeland as well as homes and numerous structures used by ranchers and their employees. Not only do most of these SRA residents provide for their own fire prevention through grazing practices, but they also pay into their local fire district for firefighting services. In addition to CCA members' active participation in fire prevention, we also believe that this fee is a tax, as the monies collected will only be redirected back to the counties if certain conditions are met.

Since bills were first sent out over three weeks ago, CCA has received troubling accounts regarding the manner in which this tax is being assessed. Numerous CCA members have reported being charged for structures which do not meet the definition of habitable, while others have been charged for both trailers which compose a doublewide trailer. While CCA is hopeful that these problems will be remedied expeditiously, we believe that these errors speak to the larger problem of data collection within SRAs. We would encourage the Board to review the data that is being used and make the proper corrections prior to adopting final regulations.

While CCA appreciates the Board's recognition that many of the SRAs are also covered by local fire districts, and thus the land owner already pays for fire protection, we oppose the Board's levy of a per habitable structure fee, as it will surely prohibit local fire districts from levying additional fees and continuing their quality of service. In addition to discouraging local districts, this fee will serve only as an additional burden on already over taxed and underserved rural communities. The Board's response to this problem is even more unsettling, as they write, "If local service districts that provide fire protection cannot obtain voter approval for increased property tax assessments due to the state's imposition of the SRA Fee, those districts may be compelled to reduce operating costs through reductions in level of service." As this regulation acknowledges that it does not explicitly provide for fire prevention, it is disappointing that the Board would knowingly write a regulation which will likely result in decreased protections for rural landowners.

It is additionally troubling that the Board states that it predicts generating eighty-five million dollars, when the Department of Forestry and Fire Protection's (Department) fire prevention activities are estimated to cost approximately seventy-six million dollars with administrative costs estimated at nine million dollars in the first year, and six million annually thereafter. Should the fee generate the predicted eighty-five million dollars after the first year, the Department will have a surplus of 3 million dollars. If this is truly a fee-for-service, this regulation ought to contain provisions that ensure that this extra money will be returned back to the districts from which it came.

Again, we would like to reiterate that the contingency measures placed on counties in order to receive grant money, makes this fee an illegal tax, as the individuals paying the fee have no control over whether or not their county implements Fire Safe Regulations.

CCA appreciates the opportunity to comment on this regulation, and while we oppose this tax in its entirety, should it be implemented, we would encourage the Board to consider our comments.

Sincerely,



Margo Parks  
Director of Government Relations

**KEVIN KESTER**  
PRESIDENT  
PARKFIELD

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To the California State Board of Forestry and Fire Protection  
c/o Eric Huff, Regulations Coordinator  
1416 9<sup>th</sup> Street -- Room 1506-14  
Sacramento, CA 94244-2460

Subject: State Responsibility Area Fire Protection Benefit Fee Hearing

Reference: Notice of Proposed Rulemaking dated October 5, 2012

### **Acceptance of Comments relating to Board Actions**

The Initial Statement of Reasons lists four alternatives for the regulations which are being considered by the Board, and inappropriately **rejects all of them out of hand**. Alternative four is to **Adopt Rulemaking Proposal as Modified through Formal Public Review and Comment Process**. That Formal Public Review is what is underway at this time.

**The Board should not reject proposals in advance of such public comments; it is dismissive and contrary to law. Most of my comments and proposed changes to the Regulations are new, novel, and persuasive; NONE appeared in staff notes from the San Diego or Redding hearings.**

### **Requirement for Promotion of Fairness**

The Notice of Proposed Rulemaking makes the statement (page 3, third paragraph from the bottom) that the regulation has **no effect on the promotion of fairness or social equity**. This Claim is **absolutely NOT true** because of the following condition of the proposed regulations:

**The application of the same \$150 fee for each condo dwelling unit within a structure as would be assessed to an entire apartment building, of the same dimensions and number of units, lacks any fairness or social equity.**

### **Proposed changes to the Regulatory Language**

Following are two pages of independent suggestions for changes to the proposed regulations. Most sections stand on their own, and they are NOT to be considered on an “all or nothing” basis. Some, of course, are interrelated. They are shown in traditional style of **underlined, bold face type** for new materials, and ~~strikeouts~~ for deleted words.

California Code Regulations (CCR)  
TITLE 14 – DEPARTMENT OF FORESTRY AND FIRE PROTECTION  
**CHAPTER 13 – STATE RESPONSIBILITY AREA FEES**

#### **§ 1665.2 Definitions**

"Dwelling Unit", for purposes of implementation of Sections 4210-4228 of the Public Resources Code, is a unit providing independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking, and sanitation. ~~Mobile and manufactured homes,~~ Apartments, and condominiums are considered as dwelling units.

"Habitable Structure", for purposes of implementation of Sections 4210-4228 of the Public Resources Code, means a building that contains one or more dwelling units or that can be occupied for residential use. Buildings occupied for residential use include single family homes, multi-dwelling structures, and mobile and manufactured homes, ~~. and condominiums.~~ Habitable structures do not include individual Dwelling Units and do not include incidental buildings such as detached garages, barns, outdoor sanitation facilities, and sheds.

"Fractional Property Owner", means that individual, company, corporation, or other entity that is the owner of record of a condominium unit in the county tax assessor rolls or as recorded in the records of the Department of Housing and Community Development on July 1 of the state fiscal year for which the fee is due.

"Property Owner", means that individual, company, corporation, or other entity that is the owner of record of an entire habitable structure in the county tax assessor rolls or as recorded in the records of the Department of Housing and Community Development on July 1 of the state fiscal year for which the fee is due.

#### **§ 1665.3. Determination of Eligible Habitable Structure**

Determinations of eligible habitable structures and the associated fees within State Responsibility Areas shall be equitably completed statewide by the Department or for the Department by its "Designated Fee Administrator" pursuant to Public Resources Code Section 4210, et seq. and 14 CCR Sections 1665.1-1665.8.

#### **§ 1665.4. Imposition of the Benefit Fee**

A Benefit Fee will be imposed on all property owners with one or more habitable structures within State Responsibility Areas as defined in Public Resources Code Section 4102 and pursuant to Public Resources Code Sections 4125-4128. A Fractional Property Owners Benefit Fee shall not exceed 20% of the Benefit Fee for those Property Owners which are the owners of an entire Habitable Structure.

**§ 1665.5. Request for Review and Refunds**

(a) A property owner from whom the Benefit Fee is determined to be due under Public Resources Code Section 4213 et seq. may petition the Department for a redetermination regarding the fee and amount determined within 30 days after service upon him or her of a notice of the determination.

.  
..

(b) Notwithstanding to any references and limitations in subsection (a) above, as an aid in efficiency in processing by the Department, one petition may be submitted by a single owner of a condominium unit which will act in behalf of all similar situated units within his Structure, without the need to supply personal details such as the bill notice ID number and BOE Account number. This shall be processed by the Department as a collective petition. Any favorable findings shall being applied to all such similarly situated units within that Structure.

**§ 1665.7. Fee exemptions**

Property owners of habitable structures within a State Responsibility Area and also within the boundaries of a local agency that provides fire protection services shall receive a reduction of thirty-five dollars (\$35.00) per habitable structure. Fractional Property Owners of habitable structures within a State Responsibility Area and also within the boundaries of a local agency that provides fire protection services shall be exempt from any Fees.

**Board Members Responsibilities to uphold the Law**

I believe each Board Member has taken an oath of office in which you have sworn to uphold the constitution and laws of the State of California. You also have a “common sense” capability which must apply in decision making.

I appeal for each of you to follow this review of **A)** the enabling statute wording, then at **B)** portions of the resulting implementation, **C)** an analysis of how this could have happened **and what can be done now to cure the inequity created.**

**A) Defining a Structure**

The Public Resources Code section 4211 (the enabling statute) has the operational definition which reads:

"Structure" means a building used or intended to be used for human habitation. For purposes of this subdivision, a building includes, but is not limited to, a mobilehome or manufactured home.

The board shall exclude from this definition building types that require no structural fire protection services beyond those provided to otherwise unimproved lands.

## **B) The implementation**

Implementation of the Fire Fee regulations is partially described in a web page “**Frequently Asked Questions**” at location [http://firepreventionfee.org/sra\\_faqs.php](http://firepreventionfee.org/sra_faqs.php) which says in part:

### **What is a habitable structure?**

A "habitable structure" is a building that can be occupied for residential use. These include single family homes, multi-dwelling structures, mobile and manufactured homes, condominiums and apartment buildings. Habitable structures do NOT include incidental buildings such as detached garages, barns, outdoor sanitation facilities and sheds.

### **What about condominiums?**

In a condominium complex, each owner has a separate parcel and would be assessed \$150 per condominium....

### **What about apartments?**

In an apartment complex, the fee is \$150 per apartment building (not per apartment unit)....

## **C) How did this occur and what can be done?**

The “State Responsibility Area (SRA) Fire Prevention Benefit Fee” came from budget cuts made in 2011, and the need for Agencies to identify “user fees” to cover the shortfall in funding. There was a notion that Property Owners within SRA or “Forest Areas” should bear some of the costs of Fire Prevention activities directly, rather than from the General Funds of the State.

Property Ownership is maintained by County Assessor and Tax Collector Records, and it was easy for authorities to identify tax parcels as sources of revenue.

Although property records contain both “map” parcels and assessor parcels, there was often no way to identify an “owning” entity, such as a Homeowners Association, for the “shell” or “common space” of multi-dwelling condo buildings. This is the opposite case for apartment buildings, since there would always exist ownership records for the structure.

**Condo Units are interior dwelling spaces within a “shell”, which is a single, outer physical structure.** These are uniquely identified from Assessor data, although the computer systems and coding used to do so may vary county by county.

Unfortunately the “easy” administrative decision was to tax all property owners equally, regardless of whether they were a fraction (ie condo) or whole structure.

**Now, with some regulatory definitional sharpening (and further computer programming), this inequity can be cured and the Fire Fee program can move on to its intended goals. Thank you.**